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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**OAKLAND DIVISION**

EPIC GAMES, INC.,

Plaintiff,

vs.

APPLE INC.,

Defendant.

No. 4:20-CV-05640-YGR

**DECLARATION OF ANDREW  
GRANT IN FURTHER SUPPORT OF  
PLAINTIFF EPIC GAMES, INC.'S  
MOTION FOR PRELIMINARY  
INJUNCTION**

Date: September 28, 2020, 9:30 a.m. (via  
Zoom Platform)

Courtroom: 1, 4th Floor

Judge: Hon. Yvonne Gonzalez Rogers

1 I, Andrew Grant, declare as follows:

2 1. I am a Technical Director of Engineering at Epic Games, Inc. (“Epic”), the  
3 plaintiff in this action. I submit this declaration in further support of Epic’s Motion for a  
4 Preliminary Injunction. (ECF No. 61.) I also submitted a declaration in support of Epic’s Motion  
5 for a Preliminary Injunction on September 4, 2020 (ECF No. 63), in which I described my  
6 background, current position, and job responsibilities.

7 2. I have reviewed Apple Inc.’s (“Apple”) submission in opposition to Epic’s Motion  
8 for a Preliminary Injunction. In this declaration I address certain claims made by Apple related to  
9 (i) Epic’s continued use of the Sign in with Apple (“SiwA”) functionality, (ii) Epic’s interactions  
10 with Apple when *Fortnite* was still available through the App Store, and (iii) some of the  
11 consequences of Apple’s decision to terminate Epic’s Team ID ’84 account.

12 3. The contents of this declaration are based on my personal knowledge. If called as  
13 a witness, I could and would competently testify thereto.

14 **Sign in with Apple**

15 4. Apple suggests in its brief (ECF No. 73 at 13) as well as in a letter attached to the  
16 Declaration of Jay B. Srinivasan, dated September 15, 2020 (ECF No. 80), that despite  
17 terminating Epic’s Team ID ’84 developer account, Apple has acted magnanimously by  
18 preserving the ability of Epic’s users to continue using the SiwA functionality that was associated  
19 with the Team ID ’84 account.

20 5. Epic was never given a choice as to whether or not to implement SiwA. A change  
21 in Apple’s App Store Review Guidelines required it, and Epic had to comply. And SiwA is tied  
22 to *Fortnite* and Epic’s Team ID ’84 account across all Epic services because Apple did not allow  
23 Epic to implement it any other way.

24 6. In June 2019, Apple announced at its annual Worldwide Developers Conference  
25 that it would be launching a new service, SiwA, in connection with the launch of iOS 13. Similar  
26 to services offered by companies like Facebook and Google, SiwA allows Apple users to set up  
27 accounts for participating apps and websites using their Apple credentials. Specifically, using  
28 SiwA, an Apple user can set up an account with a participating app using the user’s Apple ID

1 (which is an email address) and password, instead of creating new, separate login credentials.  
2 Alternatively, users can set up an account using a private email relay address generated by SiwA,  
3 rather than using their actual email address. Either way, SiwA allows users to create accounts for  
4 participating apps without providing the app developer identification and authentication  
5 information such as name and email address; that information remains with Apple, and it is  
6 therefore Apple, rather than the app developer, that controls the relationship with the user.

7 7. When SiwA officially launched in September 2019, Apple updated its App  
8 Review Guidelines to require that “[a]pps that use a third-party or social login service . . . to set  
9 up or authenticate the user’s primary account with the app must also offer [SiwA] as an  
10 equivalent option”. (ECF No. 61-17 § 4.8.) Epic already offered Epic users, including *Fortnite*  
11 users on iOS, the option to log in into their Epic accounts with several different third-party login  
12 services, such as Google and Facebook. Under the revised App Review Guidelines, Epic was  
13 therefore required to implement SiwA. Apple originally gave developers like Epic until April  
14 2020 to update existing iOS apps to support SiwA, but subsequently extended the deadline until  
15 June 30, 2020.

16 8. Epic offers users a multi-platform, multi-product account system for all of its  
17 offerings, including *Fortnite*, the Epic Games Store, Epic Online Services, and *Unreal Engine*.  
18 When a user engages with an Epic product or service for the first time, they create an Epic  
19 account that they can then use to access any of Epic’s other products and services. For example,  
20 a user who creates an Epic account to play *Fortnite* on an iOS device would use the same account  
21 to purchase and play third-party PC games through the Epic Games Store or to access and  
22 download *Unreal Engine*. Users benefit from this multi-platform, multi-product system because  
23 they do not have to manage multiple accounts (including multiple usernames and passwords) with  
24 Epic.

25 9. If users were only able to use SiwA to create or log in to their Epic account for  
26 *Fortnite*, or do so only on iOS devices, Epic’s multi-product, multi-platform account system  
27 would quickly splinter and break down. Therefore, in order to implement SiwA as a supported  
28 login method for the iOS version of *Fortnite*, Epic had to implement SiwA for all of the products

1 and services in its ecosystem.

2 10. Epic began taking steps to implement SiwA as a supported login method for Epic  
3 accounts in February 2020. As Apple had set up the system, however, SiwA would not work  
4 unless it was associated with a designated app that was available in the App Store. In addition, it  
5 was my understanding that whenever SiwA was used, it would show the logo for that primary  
6 app. This posed a problem for Epic, because Epic intended to use SiwA across its entire  
7 ecosystem, and therefore preferred not to tie it to any particular app such as *Fortnite*, let alone to  
8 have users be shown the logo of that app even if they use their Epic account with a different Epic  
9 service or product. For example, Epic wanted to prevent a situation where an *Unreal Engine* user  
10 who created their Epic account on the *Unreal Engine* website using SiwA, would nonetheless see  
11 the *Fortnite* logo every time they logged into their account, even if that user never used their  
12 account to play *Fortnite*.

13 11. Between March and June 2020, Epic reached out to Apple on at least seven  
14 occasions requesting Apple's permission to implement SiwA without tying it to *Fortnite* or any of  
15 its other apps. Epic proposed several different technical workarounds to Apple, but Apple  
16 declined to provide Epic with any guidance about how to implement SiwA without associating it  
17 with a primary app from the App Store. Finally, in June 2020, Apple informed Epic that SiwA  
18 must be associated with an individual app available in the App Store. Given the imminent  
19 deadline for compliance with Apple's SiwA policy, Epic had to move forward with implementing  
20 SiwA as functionality tied to *Fortnite* and the Team ID '84 account.

21 12. On July 14, 2020, Epic added SiwA to its account portal as a new login method.  
22 Three days later, on July 17, 2020, Epic submitted its first *Fortnite* build that supported SiwA to  
23 Apple for review. (Epic met Apple's June 30 deadline for SiwA implementation because the  
24 July 17 submission was the first new build it had submitted to Apple following the deadline.)

25 13. Apple approved the July 17 build and it was released to iOS users. But on July 21,  
26 2020, Apple notified Epic that its build was not technically compliant with its SiwA policy.  
27 Specifically, Apple complained that after a new iOS user created an Epic account using SiwA,  
28 Epic prompted the user to provide their date of birth, country, full name, password, and an email

1 verification to complete the setup of their Epic account. Apple told Epic that the collection of this  
2 information violated the App Store Review Guidelines, and gave Epic until August 24, 2020 to  
3 cure. Epic subsequently sought guidance from Apple about how to bring *Fortnite* back into  
4 compliance, but Apple would not provide Epic with the requested information.

5 14. Ultimately, to reduce the risk that Apple would reject future *Fortnite* builds, Epic  
6 complied with Apple's guidelines by changing the flow for SiwA account creation so that Epic  
7 only collected a "Display Name" and date of birth from SiwA users. As a result, to try to comply  
8 with Apple's guidelines, Epic did not collect information from SiwA users (such as a separate  
9 Epic password or an email account) that would allow users to access their Epic account in the  
10 event that SiwA ceased to function or a user lost access to their Apple account.

11 15. Following the implementation of SiwA, hundreds of thousands of users set up  
12 Epic accounts using SiwA. Approximately 40,000 users created an Epic account using just their  
13 Apple ID and never created a separate Epic account password. Another 350,000 users created an  
14 Epic account using a private email relay address generated by SiwA. A "relay" address means a  
15 computer generated email account that relays emails to the user's actual email address, which  
16 Apple maintained but that was never disclosed to Epic.

17 16. Following Apple's August 14, 2020 threat to terminate Epic's developer accounts  
18 on August 28, 2020, Epic became concerned that following the termination of the Team ID '84  
19 account, SiwA users would lose access to their Epic accounts. If SiwA were disabled, users who  
20 had never created a separate Epic account password would lose access to their accounts until they  
21 created a password using their email on file, while users who had elected to use a private relay  
22 email address would only be able to access their accounts if they happened to remember the relay  
23 email address. This would not only affect these users' ability to play *Fortnite* or other Epic  
24 games, but also would impair their access to the Epic Games Store, Epic Online Services, and  
25 *Unreal Engine*. As a result, users could lose access to their existing purchases from Epic.

26 17. On August 27, 2020, Epic's outside counsel wrote to Apple's outside counsel to  
27 explain that if Apple terminated Epic's Team ID '84 account and disabled SiwA it would impact  
28 "third-party game developers whose Epic Games Store customers use [SiwA], Epic account

1 owners who use [SiwA] to access third-party games, and third-party developers who access the  
2 Unreal Engine using [SiwA]”. (Byars Reply Decl. Ex. A at 1.) Epic’s counsel requested “that  
3 Apple confirm that it will not take any steps that impair [SiwA for] third-parties who rely on Epic  
4 services”. (*Id.* at 2.) The following day, Apple’s counsel replied that “[SiwA] will continue to  
5 function for Apple customers for the next two weeks”, but not beyond that. (Byars Reply Decl.  
6 Ex. B at 1.) Apple’s counsel also stated that “[i]f Epic’s engineers have questions of Apple’s,  
7 they have worked together in the past and Epic knows how to reach them”. (*Id.*)

8 18. Given Apple’s response, on August 28, 2020, Epic sent an email to Apple seeking  
9 assistance with migrating SiwA to a different Apple Developer Account and guidance “on next  
10 steps to do so without breaking the process for users”. Apple did not immediately reply to Epic’s  
11 email. Attached hereto as **Exhibit A** is a true and correct copy of Epic’s August 28, 2020 email  
12 to Apple.

13 19. On September 1, 2020, Epic sent a follow-up email to Apple requesting that Apple  
14 confirm receipt of Epic’s August 28 email and “provide guidance on next steps”. Attached hereto  
15 as **Exhibit B** is a true and correct copy of Epic’s September 1, 2020 email to Apple.

16 20. On September 2, 2020, because Apple did not respond to Epic’s outreach, Epic’s  
17 outside counsel sent another email to Apple’s outside counsel to inform them that Epic had not  
18 heard back from Apple about migrating SiwA to a different developer account. (Byars Reply  
19 Decl. Ex. C at 1.) Epic’s counsel requested that “Apple personnel contact Epic tomorrow, so that  
20 the parties can resolve this issue without the need to bring it to the Court”. (*Id.*)

21 21. On September 3, 2020, Apple’s Game Developer Manager Mark Grimm replied to  
22 Epic’s September 1 email. Grimm stated that “we cannot migrate your implementation of [SiwA]  
23 to another developer account” and suggested that Epic “build a custom flow to migrate users off  
24 [SiwA] by collecting email addresses or asking users to select a different login method”.  
25 Attached hereto as **Exhibit C** is a true and correct copy of Apple’s September 3, 2020 email.

26 22. Upon receipt of Mr. Grimm’s email, Epic began to develop internally a process by  
27 which it could transition SiwA users to alternative login methods. Epic originally estimated that  
28 it would take a month of work to complete the project and fully transition the existing SiwA

1 users.

2 23. On September 8, 2020, Epic's outside counsel sent an email to Apple's outside  
3 counsel requesting that Apple extend its original two-week deadline to give Epic more time to  
4 reach out to SiwA users and transition them to alternative login methods. (Byars Reply Decl. Ex.  
5 D.) Epic requested that Apple confirm its agreement to an extension that evening, so as to guide  
6 any communications with users. Apple did not provide such confirmation on September 8.  
7 Accordingly, on the eve of September 8, Epic wrote to all SiwA users notifying them that Apple  
8 would be terminating SiwA on September 11, 2020 and instructing them to update the email  
9 and/or password for their Epic account.

10 24. On September 10, 2020, less than 24 hours before the expiration of Apple's threat  
11 to terminate SiwA, Apple's outside counsel wrote to Epic's outside counsel, stating that "Apple  
12 will leave [SiwA] in place for the time being". (Byars Reply Decl. Ex. E at 1.) Apple has not  
13 committed not to terminate SiwA at any point in the future, and Epic therefore is continuing its  
14 efforts to migrate users off of SiwA.

15 **Fortnite in the App Store**

16 25. The Declaration of Mike Schmid, dated September 15, 2020 (ECF No. 79), cites a  
17 long list of supposed benefits and accommodations Epic has received from Apple in the course of  
18 distributing *Fortnite* and its other games through the Apple App Store. Apple's account omits  
19 certain important details.

20 26. Until Apple removed *Fortnite* from the App Store, Epic required that all platforms  
21 run the same version of *Fortnite*. As described in more detail in the Declaration of Timothy  
22 Sweeney, dated September 4, 2020, ¶ 8 (ECF No. 65), the requirement that users run the same  
23 version of *Fortnite* is critical to enable cross-platform play. The regular release of new content  
24 and updates through new versions or builds is also an essential feature of the *Fortnite* user  
25 experience. Today, however, given Apple's actions, Epic supports iOS users (and Android users  
26 who have downloaded *Fortnite* through Google Play) to continue using an outdated and limited  
27 version of *Fortnite* because those users are no longer able to receive updates for their apps.

28 27. When *Fortnite* was still available through the App Store, there was a constant



1 struggle with Apple to ensure that new iOS versions of *Fortnite* would be released on the same  
2 schedule as on other platforms. In Epic's experience, Apple's approval process for new builds is  
3 the slowest of all the platforms that require approval for new *Fortnite* builds. Updates would  
4 often be rejected by Apple because a review would take issue with functionality or wording that  
5 had been in *Fortnite* for some time. To try and meet its launch deadline across all platforms, Epic  
6 often needed to request that Apple expedite the review of new *Fortnite* builds. Epic took the  
7 clear position with Apple that it would give Apple every chance to approve builds in a timely  
8 fashion, but if Apple was unable to do so, Epic would not hold up the release of new *Fortnite*  
9 builds on other platforms while Apple's approval process lagged behind. In the event Apple was  
10 unable to timely approve a new *Fortnite* build, Epic was prepared to put the iOS version of  
11 *Fortnite* into "downtime"—meaning temporarily take the game offline on iOS devices until the  
12 new build is approved by Apple—to allow other platforms to receive updates while Apple  
13 approval was still pending. Mr. Schmid's assertion that "Epic personnel have told me that if  
14 Apple did not comply with its demands, Epic would simply terminate its relationship with Apple  
15 and remove its games off of the iOS platform" (ECF No. 79 ¶ 18) is incorrect. To my knowledge,  
16 Epic did not threaten to terminate its relationship with Apple and remove its games from the App  
17 Store if Apple failed to comply with Epic's requests for expedited review or propagation of its  
18 apps.

19         28. It should be noted that the delay in Apple's review process was not typically  
20 caused by a long review time. Rather, Apple's developer portal would often show that new  
21 builds were "waiting for review" for days. Once in review, however, the actual process could  
22 take as little as a few minutes. On a handful of occasions, Epic also needed to submit expedited  
23 propagation requests because new *Fortnite* builds that had *already been approved* by Apple's  
24 review process were for some unknown reason not made available to users through the App Store  
25 in a timely manner.

26         29. Over the years, Epic has spent considerable engineering time and resources  
27 supporting requirements or requests from Apple related to *Fortnite*. One example is Epic's  
28 months-long project described above to implement SiwA for *Fortnite* in order to comply with



1 Apple's App Review Guidelines. On numerous occasions, Epic has optimized or made  
2 improvements to *Fortnite* to improve its performance on iOS devices at the request of Apple.  
3 And Epic spent more than a year updating *Fortnite*'s code to make it compatible with the  
4 reduction of memory resources that Apple imposed on developers with the launch of iOS 12. At  
5 Apple's request, and like many developers with hugely popular apps like *Fortnite*, Epic has also  
6 regularly provided Apple with free marketing materials to support their marketing for devices and  
7 other services.

### 8 **iOS Security**

9 30. In its brief and supporting declarations, Apple invokes the security benefits for the  
10 iOS ecosystem that Apple says flow from Apple's review process. In my experience, there is no  
11 reason to believe that it is the best or only way to maintain the security of the iOS ecosystem.

12 31. The critical security protection provided by iOS is the result of the hardware and  
13 operating system of the device. Apple engineers deserve credit for building these security  
14 features into the earliest versions of the iPhone, enhancing them with every new release of the  
15 operating system and hardware.

16 32. On iOS, third-party apps are isolated (or "sandboxed") by the operating system.  
17 This isolation strictly prevents an app from reading or changing data belonging to other apps, or  
18 from accessing sensitive data held by the OS itself.

19 33. Access to areas that are permitted but considered sensitive—for example, Photo  
20 Albums, Contacts, Microphone, Camera, sending of text messages—is controlled by a robust  
21 permissions based security system. An app must make a specific API request to the operating  
22 system. The operating system in turn presents the user with a standard and easily understood  
23 message such as "<app-name> Would Like to Access Your Contacts".

24 34. If the user declines this request then the app is not granted access to that data. It  
25 cannot bypass the message, or change the message to trick them into a more favorable response.  
26 Once denied, a user must proactively grant permission to an application by going into device  
27 settings and enabling access.

28 35. Were it possible for applications to capture sensitive data or wreak havoc on

1 telephony systems, such behavior would be trivial to hide from review.

2 **Apple's Termination of the Team ID '84 Account**

3 36. As I described in my prior declaration, on August 28, 2020, Apple terminated  
4 Epic's Team ID '84 Account, removed all associated apps from the App Store and Mac App  
5 Store (other than *Fortnite*, which had already been removed), and informed Epic that "we will  
6 deny your reapplication to the Apple Developer Program for at least a year". (ECF No. 63 ¶ 35.)

7 37. Apple complains that Epic has continued to use Apple's proprietary software.  
8 (Declaration of Phil Schiller, ECF No. 74 ¶ 69.) As a result of the termination of Epic's Team ID  
9 '84 account, Epic is no longer able to use the account to access certain Apple software, including  
10 Apple's TestFlight software for beta testing iOS or macOS apps. Apple software may still be  
11 accessed and used through developer accounts associated with *Unreal Engine* and other products,  
12 which Apple has not terminated. To be clear, since Apple terminated the Team ID '84 account,  
13 Epic can no longer use that account to access Apple's Developer Portal or otherwise access or use  
14 TestFlight. Epic programmers are still able to use Apple software tools they downloaded under  
15 separate SDK Agreements, which they use to continue development of products unrelated to the  
16 Team ID '84 account.

17 38. Apple also complains that Epic is still collecting money from iOS users at Apple's  
18 expense. (*Id.* ¶ 68.) But Apple blocked purchases through Apple's system ("IAP") in *Fortnite*  
19 with the termination of the Team ID '84 account. When the *Fortnite* app is opened on an iOS  
20 device, the app queries Epic's and Apple's servers to retrieve information about available  
21 purchases through Epic direct payment and Apple IAP, respectively. Since the termination of the  
22 Team ID '84 account, however, when the *Fortnite* app queries Apple's servers it receives "error"  
23 values rather than information about available purchases. As a result, the app is not able to  
24 receive information from Apple's servers that is necessary to process purchases using Apple IAP.

25 39. In order to avoid user confusion, the *Fortnite* app is programmed to present users  
26 with only functioning payment options. For this reason, the app currently displays only the Epic  
27 direct payment option to users while Apple IAP is non-functioning. This is an automatic and  
28 standard feature of the *Fortnite* app's coding. Epic has not made any changes to the app that have

1 resulted in Apple IAP becoming unavailable. Further, it is not possible for Epic to reinstate  
2 Apple IAP in *Fortnite* unless and until Apple restores the ability of the app to receive information  
3 about available purchases from Apple's servers.

4  
5 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true  
6 and correct and that I executed this declaration on September 18, 2020, in Holly Springs, North  
7 Carolina.

8  
9 DocuSigned by:



10 E1625918B1B1495  
Andrew Grant